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09/965,596	09/26/2001	James Mercs	80398.P118C	3700

7590 11/28/2007  
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EXAMINER
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MEI, XU

ART UNIT	PAPER NUMBER
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2615

MAIL DATE	DELIVERY MODE
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11/28/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

09/965,596

**Applicant(s)**

MERCUS ET AL.

**Examiner**

Xu Mei

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 September 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6-10, 18-21 and 23-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-4 is/are allowed.
- 6) ☒ Claim(s) 6-10, 18-21 and 23-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. This communication is responsive to the applicant's amendment dated 09/18/2007.

#### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 6-10 and 27-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brunelle (US Patent 5,608,807) in view of Zampini et al. (US Patent 5,319,359).

Regarding Claim 6, Brunelle discloses a multi-track recording system, comprising a plurality of indicator lights (lights of 18 and lights of 4), each indicator light in said plurality corresponding to a track of the multi-track recording system (Col. 6, lines 18-31), each indicator configured to output a first form and a second form wherein the first form is associated with the output of an input of the corresponding track and the second form is associated with the output of recorded material. The indicator lights is corresponding to non-transfer modes of the channel signal, such as level indicating for example (Col. 4, lines 34-51) which is information other than information involving simulated Play, Stop and Record functions. Brunelle does not disclose that the each

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indicator light is configured to output a first and second color wherein the first color is associated with the output of the recorded material. Zampini discloses plurality of indicator lights configured with at least two light emitting devices (paragraph bridging columns 1 and 2, and R, G LEDs as shown in Fig. 2 is in a single transparent housing in order for user see) that collectively outputting a first color and a second color wherein the first color identifies that the system is operating in a first mode where the corresponding track is able to be mixed with other tracks (mixer is active) and the second color identifies that the system is operating in the second mode where the corresponding track is associated with an output of recorded material (the associated channel of the other color indicated by the LED is a corresponding track that is associated with an output of recorded material, see Col. 4, lines 62 through Col. 5, lines 12). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made modify the multi-track recording system of Brunelle use a light or LED device that configured with at least two LEDs to output a first and second color, as shown by Zampini, in order to provide the user with a multi-color status indicator for quick verification of mixing status or different channel signals modes of the multi-track recording system (see Col. 1, lines 34-40).

Regarding Claim 7, Brunelle further discloses the output to the plurality of level meters is derived from an external source (Col. 5, lines 36-39).

Regarding Claims 8-10, since Brunelle discloses that identification information could be changed as necessary (Col. 5, lines 39-42). And the changing status or mode of the channel data would have inherently alternated the blinking sequence of the red

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LED and the green LED as disclosed by Zampini. Therefore, it would have been obvious to have an alternation blinking sequence between two colors as claimed because it would have been an alternative way of indication different situations or signs.

Regarding Claim 27, Zampini further discloses features are applicable to other types of control of mix or cross fade operations (i.e. third non-transport mode) (Col. 2, lines 8-10).

Regarding Claim 28 and 29, Zampini further discloses features are applicable to other types of control of mix operations (Col. 2, lines 7-11).

Regarding Claim 30, Brunelle discloses a multi-track recording system, comprising a plurality of indicator lights (lights of 18 and lights of 4), each indicator light in said plurality corresponding to a track of the multi-track recording system (Col. 6, lines 18-31), each indicator configured to output a first form and a second form wherein the first form is associated with the output of an input of the corresponding track and the second form is associated with the output of recorded material. The indicator lights is corresponding to non-transfer modes of the channel signal, such as level indicating for example (Col. 4, lines 34-51) which is information other than information involving simulated Play, Stop and Record functions. Brunelle does not disclose that the each indicator light is configured to output a first and second color wherein the first color is associated with the output of the recorded material. Zampini discloses plurality of indicator lights configured with at least two light emitting devices enclosed within a single transparent housing (paragraph bridging columns 1 and 2, and R, G LEDs as shown in Fig. 2 is in a single transparent housing in order for user see) and collectively

outputting a first color and a second color wherein the first color identifies that the system is operating in a first mode where the corresponding track is able to be mixed with other tracks (mixer is active) and the second color identifies that the system is operating in the second mode where the corresponding track is associated with an output of recorded material (the associated channel of the other color indicated by the LED is a corresponding track that is associated with an output of recorded material, see Col. 4, lines 62 through Col. 5, lines 12). Zampini further discloses features are applicable to other types of control of mix or cross fade operations (i.e. third non-transport mode) (Col. 2, lines 8-10) and discloses features are applicable to other types of control of mix operations (Col. 2, lines 7-11). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made modify the multi-track recording system of Brunelle use a light or LED device that configured with at least two LEDs to output a first and second color, as shown by Zampini, in order to provide the user with a multi-color status indicator (more that two colors indication) for quick verification of mixing status or different channel signals modes of the multi-track recording system (see Col. 1, lines 34-40).

Regarding Claim 31, Brunelle discloses a multi-track recording system, comprising: a plurality of indicator lights (lights of 18 and lights of 4), each indicator light in said plurality corresponding to a track of the multi-track recording system (Col. 6, lines 18-31), each indicator configured to output a first form and a second form wherein the first form is associated with the output of an input of the corresponding track and the second form is associated with the output of recorded material. The indicator lights is

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corresponding to non-transfer modes of the channel signal, such as level indicating for example (Col. 4, lines 34-51). And providing constant illumination of the LED to indicate that the mode of the corresponding track is in a particular mode (col. 4, line 65-col. 5, line 5 gives a constant illumination of LEDs with regard to selection switch 12-15 being selected, i.e., the functional mode of switches 12-15 is selected). Brunelle does not disclose that the each indicator light is configured to output a first and second color wherein the first color is associated with the output of the recorded material. Zampini discloses plurality of indicator lights configured with at least two light emitting devices (paragraph bridging columns 1 and 2, and R, G LEDs as shown in Fig. 2 is in a single transparent housing in order for user see) that is collectively outputting a first color and a second color wherein the first color identifies that the system is operating in a first mode where the corresponding track is able to be mixed with other tracks (mixer is active) and the second color identifies that the system is operating in the second mode where the corresponding track is associated with an output of recorded material (the associated channel of the other color indicated by the LED is a corresponding track that is associated with an output of recorded material, see Col. 4, lines 62 through Col. 5, lines 12). The changing status or mode of the channel data would have inherently alternated the blinking sequence of the red LED and the green LED. Zampini further discloses features are applicable to other types of control of mix or cross fade operations (i.e. third non-transport mode) (Col. 2, lines 8-10). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made modify the multi-track recording system of Brunelle use a light or LED device that

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configured with at least two LEDs to output a first and second color, as shown by Zampini, in order to provide the user with a multi-color status indicator (more than two colors indication) for quick verification of mixing status or different channel signals modes of the multi-track recording system (see Col. 1, lines 34-40).

4. Claims 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brunelle in view of Turnbull et al. (US Patent 5,803,579).

Regarding Claim 18, Brunelle discloses a method of indicating a track status of a track in a multi-track recording system comprising: determining a transport movement of the track in the multi-track recording system (ID display panel 18 and output meter 4); indicating the transport movement of the track by illuminating a first light emitting diode disposed in a housing (ID display panel 18 for marking the selective interconnection of different channels, i.e., movement of the different channels); determining a mode of the track in the multi-track recording system (instrument indicator 18). The mode of signals mixing also including signals fading control for adjusting signals or tracks gain as claimed (faders 6). Brunelle does not disclose indicating the mode of the track by illuminating a second light emitting diode disposed in close proximity to the first light emitting diode such that when both the first LED and the second LED are activated, a third color is generated. Brunelle discloses that identification information could be changed as necessary (Col. 5, lines 39-42). Turnbull et al. discloses a led with two colors to produce a third color (Col. 26, lines 38-53) to produce greater illumination. Therefore, it would have been obvious to one of ordinary skill in the art at the time the



invention was made to use a LED with two colors to produce a greater illumination and a more compact and space efficient visual output.

Regarding Claim 19, since Brunelle discloses that identification information could be changed as necessary (Col. 5, lines 39-42), it would have been obvious to have an alternation blinking sequence between two colors as claimed because it would have been an alternative way of indication different situations or signs.

5. Claims 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Zampini et al. (US Patent 5,319,359).

Regarding Claim 20, Zampini discloses a plurality of recording tracks (Fig. 1); and a display comprising a plurality of single indicator lights (LED's, Col. 2, lines 5-23), each single indicator light conveying a monitored status of one corresponding track of the plurality of recording tracks, wherein the monitored status indicates both a transport movement and a mode indicating one of a group comprising a plurality of simulated function including Play, Reverse play, Fast Forward, Rewind, Stop, and Record (a red light indicating active or Play; a green light indicating deactivated or Stop, for example, as disclosed in paragraph bridging columns 1 and 2) of the one corresponding track. Although Zampini does not explicitly disclose the lights corresponding to a transport movement, Zampini discloses that the features of the invention are equally applicable with respect to other types of control of a mix or cross fade operation (i.e. transport movement) (Col. 2, lines 7-10). It is notoriously well known in the art that transport modes such as play and stop are commonly displayed to indicate to the user the status

of an audio system. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to indicate the output of a transport mode by a light indicator using an efficient amount of space.

6. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Zampini as applied to claim 20 above in view of Zampini et al. (Zampini '789) (US Patent 5,444,789). Zampini does not disclose the mode of the track indicates one of a group comprising Read Audio Input On, Read Audio Input Off, Monitor, Slip Channels, Located Edits, or Input/Output Gain Adjustment. Zampini '789 discloses a mixer device with a LED which is automatically lit during monitoring, thereby indicating that the line out channels are being monitored (Paragraph bridging columns 1 and 2). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to indicate that a line out channel is being monitored for feedback to the user of the device.

7. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Zampini as applied to claim 20 above in view of Brunelle (US Patent 5,608,807). Zampini discloses a system as stated apropos of claim 20 but does not disclose a level meter corresponding to the indicator lights. Brunelle also discloses a mixer with level meter (4) to indicate the level of audio sound for each channel. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include a

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level meter in order to indicate the output level for each channel as disclosed by Brunelle (Col. 4, lines 49-50).

8. Claims 21, 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zampini as applied to claim 20 above in view of Brunelle (US Patent 5,608,807), and further in view of Turnbull.

Regarding Claims 21, 24, and 25, the combinations of Zampini and Brunelle as in claim 20 above do not disclose a color produced by a first and second color. Brunelle discloses that identification information could be changed as necessary (Col. 5, lines 39-42). Turnbull et al. discloses a LED with two colors to produce a third color (Col. 26, lines 38-53) to produce greater illumination in a transparent housing (28 and 29). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use a LED with two colors to produce a greater illumination.

#### ***Allowable Subject Matter***

9. Claims 1-4 are allowed.

#### ***Response to Arguments***

10. Applicant's arguments filed 09/18/2007 have been fully considered but they are not persuasive.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies

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(i.e., the specific non-transport mode that is referred to page 9 of the specification) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the motivation for combinations of Brunelle in view of Turnbull for the purpose of utilizing a LED with two colors to produce a greater illumination and a more compact and space efficient visual

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output would have been considered obvious to one of ordinary skill in the art, as stated in the rejection above.

Furthermore, the various arguments with regard the references of Brunelle or Zampini or Turnbull fails to disclose the different limitations, they are deemed not persuasive because the various argued claim limitations are clearly addressed in the rejections for the various claims above. And thus the combinations of the references of Brunelle and Zampini or Brunelle and Turnbull as used in the rejections above met the claimed invention.

As these are the totality of arguments presented, and they have been found unpersuasive, the existing rejection is deemed appropriate. The remainder of the pertinent topics for argument is present in the appropriate rejections as stated above.

### ***Conclusion***

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Xu Mei whose telephone number is 571-272-7523. The examiner can normally be reached on maxi flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivian Chin can be reached on 571-272-7848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Xu Mei/  
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Primary Examiner  
Art Unit 2615  
11/21/2007